Supreme Court, U.S.
FILED
OCT 4 1996
OFFICE OF THE CLERK

(3)

No. 96-202

In The
Supreme Court of the United States
October Term, 1995

MARION URICHICH AND HELEN URICHICH,
Petitioners,

vs.

CITY OF YOUNGSTOWN AND ROCCO RUSSO,
Respondents.

On Petition For Writ Of Certiorari
To The Supreme Court Of Ohio

REPLY TO BRIEF IN OPPOSITION

MARION URICHICH, PRO SE
508 N. Main Street
Poland, Ohio 44514
(330) 757-0340

8 pp

IN ANSWER TO QUESTION PRESENTED FOR REVIEW

Respondent issued the following statement:

"Does Ohio Civil Rule 56 titled "Summary Judgment" violate a citizen's right to a trial by jury or is it a viable tool to end litigation when there is an absence of material facts concerning the essential elements of the case?"

The above statement by Respondent is secondary and should be considered by this court but the primary question that should be considered by this court is found on page ii of Petitioners' Writ of Certiorari.

"Whether a government entity can confiscate, destroy and/or deprive a citizen of his or her rights to property, held by deed free of encumbrances, without adequate compensation financial or otherwise unless a state of emergency exists and/or martial law has been declared."

TABLE OF CONTENTS

Page

ANSWER TO QUESTION PRESENTED FOR REVIEW .. i

TABLE OF CONTENTS ii

STATEMENT OF THE CASE 1-4

ARGUMENT 1-4

CONCLUSION 4

CERTIFICATE OF SERVICE 10/4/1996

EXHIBITS 1-4

TABLE OF AUTHORITIES

Rules Cited:

	PAGE
Ohio Civil Rule 56	3
Supreme Court Rule 15.1	3

REPLY TO

RESPONDENTS' STATEMENT OF THE CASE

Respondents state on page 1 in their Brief in Opposition.

"On June 6, 1991, a civil complaint for damages was filed on behalf of petitioners against Respondents.

On June 28, 1991, Respondents answered and on April 28, 1992, a Motion for Summary Judgment was filed on behalf of the Respondents."

The above first statement by Respondents is an unbelievable distortion of the truth. As a matter of fact, the litigation in question was filed on March 10, 1989 and is certified by the Appearance and Execution Docket that is part of the record in this case.

In response to the second paragraph, as a matter of fact, the initial judge that was appointed to hear this litigation was the Honorable Judge Peter C. Economus.

On June 1, 1990 Judge Economus issued a Judgment Entry denying the Defendants Summary Judgment and stated "Finds that there is a genuine issue as to a material fact" and therefore ordered that the motion for Summary Judgment by Respondent was overruled.

Attorney Charles E. Dunlap requested of Petitioners and the court to be relieved as Counselor for Petitioners. Petitioners engaged Attorney Norman L. Christley.

Attorney Christley informed the Petitioners that the case was filed improperly and recommended the case to be refiled adding Fireman Rocco Russo as a Defendant with the City of Youngstown.

The case was then assigned to Judge Michael A. Gerchak, mysteriously.

The evidence that was before the court was identically the same when Judge Economus overruled the Defendants' Motion for Summary Judgment filed on March 14, 1990.

The Defendants again filed a Motion for Summary Judgment on April 28, 1992. On December 28, 1992, Judge Gerchak then contradicted Judge Economus's opinion and sustained the Defendants' Motion for Summary Judgment.

Is it the practice of government entities to shop around until they find a Judge who agrees with government.

The record shows that a police officer assigned as a specialist in traffic accidents, Officer David Lomax, Report No. 19030, Youngstown Ohio Police Department, indicates damage scale heavy and contributing factor, driver error, failure to control.

In the deposition of Officer Lomax, on Page 45, line 2, he was asked if there was a City Ordinance that it would be a traffic violation in a motor vehicle accident for failure to control. Line 5, Yes. Page 45, line 10, question: Did you ticket Mr. Russo? Line 12, No, I did not. On Page 42, Officer Lomax was asked why his report of the accident was failure to control. Line 6, answer: I felt that Mr. Russo did not have control of the vehicle because he was not able to safely maneuver the vehicle over the normal travel of road.

Respondents address Ohio Civil Rule 56 and Federal Rule 56 and are trying to persuade this court not to examine the evidence that established without a reasonable doubt by Judge Economus that there is and was a genuine issue as to a material fact in this litigation and deny Petitioners a trial by a jury of their peers.

Respondents have taken certain paragraphs from the various depositions out of context so as to mislead this court.

Respondents have avoided in the Court of Appeals, Seventh Appellate District of Ohio, and the Supreme Court of Ohio, answering the facts presented to the courts pertaining to this great injustice.

Respondents are asking this court to set a precedence for the government of the people of this great nation to be able to destroy, confiscate, and/or damage private property without due compensation financially.

There is not a question in Petitioners' minds that Fireman Officer Russo did not intentionally destroy Petitioners' commercial building. Accidents occur by motor vehicles either by mechanical failure and/or the operator of any type of motor vehicle that is at fault in an accident being negligent by his or her failure to control said motor vehicle which constitutes wilful or wanton misconduct and therefore is a jury issue.

CONCLUSION

The record indicates without a reasonable doubt that this litigation should be returned to be heard by a jury of Petitioners' peers.

Given the facts of this case, reasonable minds could have found the City of Youngstown and Rocco Russo's action wilful, wanton, and/or reckless misconduct.

To deprive the citizens of this great nation the right to be compensated financially as Respondents request, for the destruction and/or confiscation by a government entity would destroy the very fabric and stability of our society.

Respectfully submitted,

Marion Urichich, Pro Se
508 N. Main Street
Poland, Ohio 44514
(330) 757-0340